

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

ERIC L. JEFFRIES,	)	CASE NO. C-1-02-351
	:	
Plaintiff,	)	JUDGE BECKWITH
	:	Magistrate Judge Hogan
v.	)	
	:	
CENTRE LIFE INSURANCE CO., et. al.,	)	
	:	
Defendants.	)	

**MOTION FOR CONTINUANCE OF TIME TO DEPOSE DR. KIRK FREY AND  
FILE A MOTION *IN LIMINE* TO EXCLUDE THE EXPERT TESTIMONY OF DR. FREY**

The plaintiff, Eric L. Jeffries, hereby moves for extension of time to both depose Dr. Kirk Frey and file a motion *in limine* to preclude the purported expert testimony of Dr. Kirk Frey. A memorandum and Declaration in support are attached.

Respectfully submitted,

OF COUNSEL

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**Memorandum In Support**

The defendant was required to provide plaintiff with defendant's expert reports on August 30, 2003. On that day, the defendant identified Dr. Kirk Frey as an expert and represented that Dr. Frey had the information needed to generate a report and that his report would be forthcoming shortly. (*See, Doc. 105*).

The defendant did not provide Dr. Frey's report to plaintiff until almost 3 months later, November 17, 2003. (*See, Declaration of Plaintiff's Counsel, attached*). Plaintiff then requested the opportunity to depose Dr. Frey. On November 24, 2003, in an email, defendant's counsel stated: "I will call Dr. Frey tomorrow and try to get an agreeable date [for his requested deposition]."

Plaintiff heard nothing further from defendant's counsel until December 4, 2003. On that day, while counsel for the parties were in New York City for a deposition, plaintiff again asked defendant's counsel for a time to depose Dr. Frey. Defendant's counsel could not supply a date. The cutoff for taking depositions of experts expired on December 5, 2003.

On Thursday, December 11, 2003, defendant finally responded to plaintiff's request for a date to depose Dr. Frey. Defendant stated that Dr. Frey cannot commit to a deposition date until his return to Michigan on or about December 15, 2003. (*See, Attached*). Now, trial commitments in other matters prevent plaintiff's counsel from taking Dr. Frey's deposition prior to January 1, 2003.

Accordingly, the plaintiff asks that the Court extend the time to take Dr. Frey's deposition, which is necessary before plaintiff can file a *Daubert* motion relative to his testimony and extend the time plaintiff has to file the appropriate *Daubert* motion concerning Dr. Frey's opinions.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The foregoing was delivered, via regular U. S. Mail to William R. Ellis, Esq., Wood & Lamping LLP, 600 Vine Street, Suite 2500, Cincinnati, Ohio 45202, this 12<sup>th</sup> day of December, 2003.

/s Michael A. Roberts